

**REMARKS/ARGUMENTS**

Reconsideration of the application in view of the above amendments and the following remarks it is respectfully requested. Claims 1, 9, 17, and 21-24 have been amended. Claims 1-24 are currently pending in the application.

I. CLAIM REJECTIONS--35 U.S.C. § 101

Claims 9-16 were rejected under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter. Without any admission as to the veracity of the Examiner's rejection, but rather in the interest of advancing prosecution, Applicants have amended claims 9-16 to replace each instance of "machine-readable medium" with "machine-readable storage medium". Applicants believe that this amendment addresses the Examiner's concerns. Hence, Applicants request that this rejection be withdrawn.

The Examiner also rejected claims 17-24 under 35 U.S.C. §101. As justification for the rejection, the Examiner stated that, even though the claims recited an apparatus, the apparatus would be reasonably interpreted by one of ordinary skill in the art as software per se, thus, failing to be tangibly embodied or include any recited hardware. Applicants respectfully disagree with this rationale. As they currently stand, claims 17-24 recite mechanisms for performing certain functions. As is well known by those of ordinary skill in the computing arts, software per se is not a mechanism. By itself, software does not perform any function. Rather, software has to be executed by one or more processors in order for any functions to be realized. This fact is extremely well known in the computing arts. Further, it is extremely well known in the computing arts that hardware mechanisms such as ASICs, FPGAs, etc., can be created to perform such functions as cited in claims 17-24. Consequently, one of ordinary skill in the computing

arts would not reasonably interpret the mechanisms and the apparatus of claims 17-24 to be software per se. Accordingly, Applicants respectfully request that this rejection be withdrawn.

II. CLAIM REJECTIONS—35 U.S.C. § 103

Claims 1-24 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over (“Armstrong”) U.S. PG Publication No. US 2002/0156824 A1. This rejection is respectfully traversed.

Claim 1 has been amended to clarify the claimed invention and appears as follows:

1. A machine-implemented method, comprising:  
establishing, within a global operating system environment provided by an operating system, a non-global partition, among a plurality of non-global partitions within the global operating system environment, which serves to isolate processes running within the non-global partition from other non-global partitions within the global operating system environment;  
associating a first resource limit with the non-global partition, wherein the first resource limit indicates a maximum amount of a particular resource that can be allocated to the non-global partition; and  
associating a second resource limit with a group of one or more processes within the non-global partition, wherein the second resource limit indicates a maximum amount of the particular resource that can be allocated to the group of one or more processes.

In particular, Armstrong does not teach or disclose establishing, within a global operating system environment provided by an operating system, a non-global partition, among a plurality of non-global partitions within the global operating system environment, which serves to isolate processes running within the non-global partition from other non-global partitions within the global operating system environment as cited in Claim 1. Armstrong discloses a mechanism for enabling a computer system to be partitioned into a plurality of logical partitions. The system of Armstrong comprises a low-level hypervisor base 202 (Fig. 2 of Armstrong), which executes at a level beneath the OS kernel level. The hypervisor base 202 enables the system to be logically

partitioned. Specifically, it is the hypervisor base 202, along with a hypervisor management tool 203, that enables an administrator to configure the system into a plurality of logical partitions 204A-204D (paragraph 0025), and it is the hypervisor base 202 that enforces the logical partitions (paragraph 0034, lines 1-4). Each partition may have a set of resources (e.g. processors) associated therewith, and each partition may execute its own OS kernel (paragraph 0026, last sentence; Fig. 2). Set up in this way, each partition behaves like a separate and distinct computer system. Thus, with the mechanism of Armstrong, a single computer system can be partitioned to behave like a plurality of separate and distinct systems.

Armstrong's logical partitions 204A-204D are not partitions established by an operating system within an operating system environment provided by the operating system. If they were, the partitions would look like the partitions shown in Fig. 1 of the present application, wherein a plurality of non-global partitions 140 are shown within a global operating environment 130 provided by an operating system. There is no such showing in Armstrong. Instead, in Fig. 2 of Armstrong, each of the partitions 204A-204D is shown as a separate partition, each of the partitions is shown as executing a separate OS kernel (paragraph 0035), and none of the OS kernels show multiple partitions within it. Hence, unlike Claim 1, the logical partitions of Armstrong are not operating system partitions but rather separate OS kernels (as the Office Action also points out), and they are not established by an operating system within an operating system environment provided by the operating system. This aspect of Claim 1 is clearly not taught or disclosed by Armstrong.

Further, Armstrong does not teach or disclose associating a second resource limit with a group of one or more processes within the non-global partition, wherein the second resource limit indicates a maximum amount of the particular resource that can be allocated to the group of one or more processes as cited in Claim 1. The Office Action states that Armstrong does not teach

such a feature. However, the Office Action states that “... it would have been obvious to one of ordinary skill in the art at the time of the invention to including associating a resource limit with a group of one or more processes within the partitions. One would be motivated by the desire to share the resources among the various tasks within each partition and prohibit any one task from blocking other tasks from executing.” The Office Action contradicts itself in its statement. The motivation that the Office Action states, assuming, *arguendo*, that it is a valid motivation, would result in one having to limit the amount of a resource that a single task could consume. The Office Action’s approach would then “prohibit any one task from blocking other tasks from executing”. However, the actual language of the claim element is (emphasis added): “associating a second resource limit with a **group** of one or more processes within the non-global partition, wherein the second resource limit indicates a maximum amount of the particular resource that can be allocated to the **group** of one or more processes.” There is no showing by the Office Action that it would have been obvious to one of ordinary skill in the art at the time of the invention to associate a second resource limit with a **group** of one or more processes within the non-global partition. Further, there is no mention in Armstrong that processes within a non-global partition can be grouped together. Therefore, Armstrong does not contemplate such a feature.

Therefore, Armstrong does not teach or disclose the invention as claimed.

Claim 1 is allowable. Claims 9 and 17 are similarly allowable. Claims 2-8, and 10-16, and 18-24 are dependent upon independent Claims 1, 9, and 17, respectively. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

III. CONCLUSION

For the foregoing reasons, Applicant submits that all of the pending claims are patentable over the art of record, including any art cited but not applied. Accordingly, allowance of all of the pending claims is hereby respectfully solicited.

The Examiner is invited to telephone the undersigned at (408) 414-1214 to discuss any issue that may advance prosecution.

No fee is believed to be due specifically in connection with this Reply. To the extent necessary, Applicant petitions for an extension of time under 37 C.F.R. § 1.136. The Commissioner is authorized to charge any fee that may be due in connection with this Reply to our Deposit Account No. 50-1302.

Respectfully submitted,

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